IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

WP(C).No. 7569 of 2006(A)

PETITIONER:

ANIL KUMAR P.P., KARINGANATTIL HOUSE, CHAMAMPATHAL P.O., KOTTAYAM DISTRICT.(FORESTER, BODIMET SECTION, DEVIKULAM RANGE, MUNNAR FOREST DIVISION.)

BY ADV. SMT.DAISY THAMPI

RESPONDENTS:
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1. KERALA PUBLIC SERVICE COMMISSION THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY.

2. THE CONSERVATOR OF FORESTS, HIGH RANGE CIRCLE.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC FOR RI GOVERNMENT PLEADER, BIJOY CHANDRAN FOR R2.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

W.P.(C)No. 7569 OF 2006

Dated this the 14th day of February, 2007

J U D G M E N T

The petitioner is working as Forest Guard in the department of Forest, Government of Kerala. He applied for selection to the Forest Ranger's Training Course, 2006-07. In the written test, the petitioner could secure sufficient marks so as to get his register number included in the short list. Subsequently, he appeared before the 1st respondent for physical measurement. The 1st respondent recorded the chest measurement as 82 cms normal. On the above ground, the petitioner was excluded from further selection process. According to the respondent Commission, the minimum normal chest measurement required for selection is 84 cms. Feeling aggrieved the petitioner has filed this writ petition.

2. Two grounds have been urged by the counsel for the petitioner.

i) The measurement taken was not correct and therefore the Commission should be directed to conduct one more measurement as far as the petitioner is concerned.

ii. The minimum measurement actually required is 79cms and the Commission went wrong in insisting that the petitioner should have atleast the normal chest measurement of 84cms.

3. As far as the first prayer is concerned, I do not think that it would be proper at this stage to direct the Commission to conduct one more measurement. By lapse of time any such direction will result only in injustice. Re- measurement if at all justified shall have to be done as urgently as possible, since chest measurement is subject to variation by lapse of time. Hence the first ground urged on behalf of the petitioner is found not tenable.

4. As far as the second contention is concerned, it would be appropriate to refer to the additional affidavit filed by the 1st respondent. It is stated that the minimum chest measurement in normal condition is fixed as 84 cms pursuant to prescriptions made in the Entrance and Training Rules (revised) 2004 for Forest Range Officers. Counsel for the Commission submits that the above rule was promulgated so as to have operation all India wise after consultation with the concerned State Governments. This rule unlike the other rule governing promotions and

selection to posts is one specially made applicable to training courses. Though Counsel for the petitioner would submit that the above rule cannot be pressed into service, I am of the view that since special rules will prevail over the general rule, the said training rule shall be the guiding light for the Commission in matters relating to selection to training courses.

5. Counsel for the petitioner submits that in the subsequent notification the Commission has shown only 79 cms as the normal chest measurement and that the above discrepancy would show that the Commission's contentions are not correct. I do not think that it would be safe for this Court to consider the validity of the earlier notification fixing 84 cms as the minimum chest measurement looking into a subsequent notification issued by the Commission. The validity of that notification or the prescription of the chest measurement shown therein is not and need not be the subject matter of this writ petition. The parties have not joined issue on those matters.

Writ petition fails and is dismissed.

(K.K.DENESAN, JUDGE)

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